

## LANE COUNTY LEGAL AID SERVICE, INC.

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September 25, 2001

Leonard J. Koczur  
Acting Inspector General  
Legal Services Corporation  
750 First Street N.E., 11<sup>th</sup>. Floor  
Washington, D.C. 20002-4250

Dear Mr. Koczur:

General Comment. This letter is in response to your draft report of September 12, 2001. The visit from July 16 through July 25, 2001, by your team, headed by Michael Griffith, was conducted in a professional, thorough and courteous manner.

The facts and conditions presented are accurate. We have some language concerns that are noted below. We also question your interpretive approach to Part 1610.8 in a few places. We think you have used an appearance standard where it should be an objective standard; 1610.8(a) requires objective integrity. Also, we think that there should be a weighing of factors; 1610.8(a)(3) requires considering a totality of facts. How the Part is interpreted is important, not just to our program, but likely to other recipients as well.

Recommendations.

Most of the recommendations, noted on Page 9, are well within our capacity to complete and we are moving on them. Because of interpretive questions, and potential operational difficulties, we are waiting on others. By this letter we are inviting, and requesting, the administration of the Legal Services Corporation enter into a discussion with us. We think we can fulfill the requirements of Part 1610.8 with modifications in recommendations #5 and #7 in particular. As to #5, we would like additional explanation regarding the necessity for this recommendation. It does not seem to be a pivotal condition in the overall separation question. Fulfillment of this recommendation would be disruptive to our operation by re-assignment of personnel. As to #7, why not require appropriate descriptive language onto the home page of the website that distinguishes the corporations?

Interpretation of 1610.8.

Objective Integrity standard.

The standard of Objective Integrity and Independence(1610.8) is paramount and controlling for this Section. Please note the bottom of Page 1 in your introduction to the report. The paragraph labeled “Objective Integrity and Independence” has in it’s last sentence “...the organizations are virtually indistinguishable to clients and individuals (underline ours) not aware of the working arrangements....”. We do not find anyplace in this Section, or the Preamble to the Part, requiring, or suggesting, such a standard. To assume a client will be confused is not a usable standard. This is not a statement of objective reality. Also, this standard would not satisfy the ‘totality of facts’ requirement since most all ‘clients and individuals’ are unaware of the details of our organization. We also do not have the experience of clients asking us about the relationship.

Also, please note Page 4, third full paragraph - which concludes the section on Case Intake. The same standard is used here suggesting client confusion about the relationship. You continue further to suggest that the client would “...conclude that the Advocacy Center was providing legal services even in cases where the grantee’s staff provides the services”. In practice, once the client is accepted, they are assigned to a Legal Aid casehandler, the same day, and there is no confusion. It may be constructive to notify applicants that the Advocacy Center is providing intake services. As a matter of appropriate public/client education, we could proffer a one page description of the two organizations. However, we do not see how applicant/client impressions determine the objective separateness of the organizations. We think using a such a standard would set a bad precedent.

We suggest that if “confusion” and “misunderstanding” are used as a standard, that it be a conclusion from a totality of objective facts. This approach is inferred in the next to last paragraph in the Preamble under Section 1610.8. This paragraph discusses whether “...there might be a confusion or misunderstanding about the recipient’s involvement with or endorsement of prohibited activities”. The question then becomes: are clients aware of what a prohibited activity is? Do they have all the facts? We believe adhering to the objective standard will promote the de facto separation contemplated by Part 1610.

### Totality of the Facts.

It is certainly understood that the entire report is designed to satisfy the “totality of facts” requirement of 1610.8(a)(3). We have two observations. First, the report primarily describes only factors causing concern. There is no listing of factors that suggest appropriate separation. Second, because of this lack, there is no weighing of the factors - those that conform vs. those that do not. Part 1610 does not require weighing per se. We think to satisfy the “totality” requirement, you must also list positive, conforming factors. Once that is done, then a weighing is required as a natural consequence.

For our purposes, it would be helpful to highlight conforming factors. We place a high value on the following: 1) separate corporations and boards of directors, 2) separate staff placed separately in the building, 3) separate bookkeeping/timekeeping, 4) prominent signage outside and inside, 5) contracts between the organizations that create an ‘arms length’ financial/operational relationship, 6) separate phone numbers and stationery, and, 7) a web page that lists the organizations separately. All of these are mentioned in varying degrees in the report. If you could point out why these are not persuasive against your findings, it would assist our understanding of the requirements of Part 1610.

### Language in the Report.

There are places in the report where the use of language is possibly misleading. Even though some of these appear ‘de minimus’, we think the implication, or slant, to the language should be modified.

1. Page 3, second paragraph, last sentence under heading “Co-location”.

This sentence notes that our sign provides direction to Legal Aid on the third floor but does not distinguish the grantee from the Advocacy Center. What does this mean? Should there also be a sign that says this is not the Advocacy Center?

2. Page 3, second heading "Shared Staff".

We consider the term 'shared staff' too vague with an implication that staff members are not distinguished as working for one organization or the other. All staff work as employees for one of the organizations. Work done for the other organization is monitored and recorded for the contracts - which are designed to keep the organizations at an arms length business relationship. It would be better to designate these people as contractors. The term 'shared staff' appears also on Page 5 under the heading Administrative Staff.

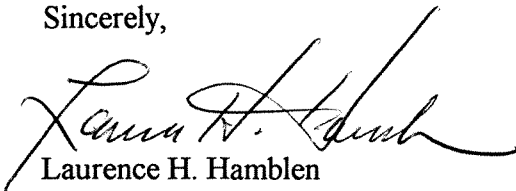
3. Page 7, first sentence under heading "Telephone and FAX Numbers".

It would be good to add a note, after the first sentence, that the same number appeared in the Yellow Pages because of a mistake by Qwest. Also, note that information in the White Pages (and when "Information" is dialed) is correct in distinguishing the organizations and their separate numbers.

Conclusion.

It is our intention to bring Legal Aid into conformance with Part 1610 as required by this Report. Again, we ask for a dialogue on two of the recommendations which we feel can be adjusted and still be in full compliance with the Regulation.

Sincerely,



Laurence H. Hamblen  
Executive Director